



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/693,804

10/24/2003

Michael E. Deem

MS1-1793US

4134

22801 7590 03/09/2011

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

EXAMINER

JACKSON, JENISE E

ART UNIT

PAPER NUMBER

2439

NOTIFICATION DATE

DELIVERY MODE

03/09/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

Office Action Summary	Application No.	Applicant(s)	
	10/693,804	DEEM ET AL.	
	Examiner	Art Unit	
	JENISE E. JACKSON	2439	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-37 and 42-49 is/are allowed.
- 6) ☒ Claim(s) 1-21, 38-41, 50-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-21, 38-41, 50-54 are directed to non-statutory subject matter. Claims are directed to, “One or more processor-accessible tangible storage media comprising processor-executable instructions stored thereon”. The word “tangible”, can be capable of being touch or perceived. Thus, a signal can be perceived. Signals are directed to non-statutory subjected matter. The Applicant can overcome the 101 rejection by amending claims to claim, a "computer readable device", or "computer readable medium wherein the medium is not a signal, or “non-transitory computer readable medium”.

Allowable Subject Matter

3. Claims 1, 38, and 50, would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101 rejection, set forth in this Office action. Claims 1, 38, and 50 are allowable for the following limitations, “providing a common language runtime layer that hands calls to the API functions of the program interface layer by the plurality of intermediate language programs to the operation system or the object model server for execution", and "converting a communication associated with an API function of the program interface layer from the first form to the second form”, an example of prior art that fails to disclose or suggest these limitations is Marcey(7,305,677). Marcey discloses runtime based applications are transferred to dynamic runtime implementations suited to process the workload associated with the application code. Marcey discloses the common language is compiled to be processed on a

Art Unit: 2439

given platform. Marcey discloses that the application code is compiled into the CLI's common intermediate language and executed on the Common Language Infrastructure.

Allowable Claims

4. Claims 22-26 are allowable for the same reasons as listed above.

5. Claims 27-32 are allowable for the following limitations, "creating a plurality of groups in a file system that resides on a server of the program development computer system for the set of API functions according to type, each group containing logically related API functions of the application program interface", an example of prior art that fails to disclose or suggest these limitations is Lennon. Lennon discloses the grouping of "multimedia items", such as video, audio, and images, using XML schemas. Lennon discloses multimedia items conform to a schema, and that schemas are expressed or represented using the W3C schema language, XML Schema. Individual descriptions are represented using XML document instances. XML Schemas are also represented as XML documents. However, the grouping of "multimedia items" (e.g., video, audio, images) is not equivalent to the group of "API functions". Lennon fails to disclose or suggest, "creating a plurality of groups in a file system that resides on a server of the program development computer system for the set of API functions according to type, each group containing logically related API functions of the application program interface".

6. Claims 33-37 are allowable for, "API interface layer running on top of a common language runtime layer to receive API function calls from an intermediate language program", and example of prior art that fails to disclose or suggest these limitations is Blackwell(2002/0183044). Blackwell discloses namespaces, such as a shell namespace. Blackwell discloses the shell namespace is referred to a messaging component, that may manage

Art Unit: 2439

and unify user's message through Explorer shell interface. Blackwell discloses integration of the messaging component with the Explorer shell provides message management using namespace in addition to the components that come with the Windows, and allows the user to view additional data, such as a fax message, voice mail message, page messages, e-mail messages, or contact data. Blackwell fails to disclose or suggest, an "API interface layer running on top of a common language runtime layer to receive API function calls from an intermediate language program".

7. Claims 42-49 are allowable for, "calling one or more first application program interface(API) functions of an API layer that is running on top of a common language runtime layer that resides on a server of a program development computer system", an example of prior art that fails to disclose or suggest these limitation is, Mellmer(6,446,253). Mellmer discloses a hierarchically ordered plurality of namespaces, each namespace associated with at least one group of resources available to a program, each namespace comprising a plurality of names, each one of the plurality of names providing a logical interface to one of the resources in the at least one group wherein each name is a data structure including a pointer to an object associated with the one of the resources in the at least one group and a mapping to a routine for implementing the retrieval of the associated object from an abstract storage system. Mellmer fails to disclose or suggest, "calling one or more first application program interface(API) functions of an API layer that is running on top of a common language runtime layer that resides on a server of a program development computer system".

Response to Applicant

8. A Non-final rejection was mailed on 11/26/10 in which claims 1-21, 38-41, 50-54 were rejected under 101 only. The Examiner indicated claims 1-21, 38-41, 50-54 would be allowable if written to overcome the 101 rejection. The Examiner previously indicated that claims 22-37 and 42-49 were allowable. Applicant's arguments filed 12/30/10 have been fully considered but they are not persuasive.

9. The Applicant's amendment to claims 1-21, 38-41, and 50-54 to recite a computer readable memory is not sufficient to overcome a 101 rejection. On page 139 of the Applicant's specification, the Applicant states that a computer readable media can be any available media that can be accessed by a computer, and discloses that a computer readable media can comprise a computer storage media. The Applicant discloses that a computer storage media can be data structures, program modules, and can include another medium which can be used to store desired information (see pg. 139). Data structures, program modules, and any medium can include a propagation medium which can include signals used to store desired information. Thus, all of these pertain to software, and are non-statutory. The United States Patent and Trademark Office is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed.Cir. 1989). The broadest reasonable interpretation of a claim drawn to a computer readable memory covers forms of non-transitory tangible media and transitory propagating signals. See MPEP 2111.01

Final Action

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENISE E. JACKSON whose telephone number is (571)272-3791. The examiner can normally be reached on Increased Flex time, but generally in the office M-Fri(8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571) 272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2439

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

March 3, 2011

/J. E. J./

Examiner, Art Unit 2439

/Edan Orgad/

Supervisory Patent Examiner, Art Unit 2439